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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL EUGENE RIZZO,

Defendant and Appellant.

2d Crim. No. B206415  
(Super. Ct. No. 2007016478)  
(Ventura County)

Michael Eugene Rizzo appeals from the judgment following his entry of a guilty plea to possession of heroin and his admission that he had a prior strike conviction and had served a prior prison term. (Health & Saf., § 11350, subd. (a); Pen. Code, §§ 667, subds. (c) & (e); 1170.12, subds. (a) & (e); 667.5, subd. (b).) The trial court struck the prior felony strike conviction and prior prison term allegations. It denied probation, sentenced appellant to the mid-term of 2 years in state prison and awarded him 309 days of presentence custody credits.

The present offense was committed when police officers approached appellant because they had received information that he had been selling drugs. He was arrested for being under the influence of a controlled substance. The officers searched his person and recovered approximately one-third gram of heroin, and found a used hypodermic needle after searching his car. After being given warnings pursuant to *Miranda v. Arizona* (1966) 384 U.S. 436, appellant told the officers that he was a recovering drug addict and had used heroin on the date of his arrest. He admitted

possession of heroin but claimed it was only for personal use. He also admitted possession of the syringe and that he had used methamphetamine in the past. His urine sample showed the presence of amphetamine, methamphetamine and morphine.

Appellant filed a motion to suppress evidence seized from his person and car and statements he made to officers after his detention. (Pen. Code, § 1538.) The motion was heard in conjunction with appellant's preliminary hearing. The motion was denied, and appellant was held to answer. Appellant subsequently entered into the plea agreement.

We appointed counsel to represent appellant in this appeal. After reviewing the record, counsel filed an opening brief raising no issues and requesting this court to independently examine the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. On July 9, 2008, we advised appellant that he had 30 days in which to submit a written brief or letter stating any contentions or arguments he wished us to consider. We have received no response from him.

We have examined the entire record and are satisfied that appellant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

The judgment is affirmed.

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COFFEE, J.

We concur:

GILBERT, P.J.

PERREN, J.

Steven Hintz, Judge  
Superior Court County of Ventura

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Richard B. Lennon, under appointment by the Court of Appeal, for  
Defendant and Appellant.

No appearance for Plaintiff and Respondent.